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February 22, 1999

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**HAND-DELIVERED**

Ms. Magalie Roman Salas  
Secretary  
Office of the Secretary  
FEDERAL COMMUNICATIONS COMMISSION  
445 12th Street, S.W.  
TW-A325  
Washington, D.C. 20554.

Re: *Amendment of Section 2.106 of the Commission's Rules to Allocate Spectrum at 2 GHz for Use by the Mobile-Satellite Service, FCC 98-309, released November 25, 1998 (Memorandum Opinion and Order, Third Notice of Proposed Rule Making, and Order in ET Docket No. 95-18)*

Dear Madam Secretary:

On behalf of Iridium LLC, and pursuant to Section 1.429 of the Commission's rules, 47 C.F.R. § 1.429 (1997), I enclose for filing in the above-captioned proceeding an original and eleven (11) copies of Iridium's "Consolidated Comments on Petitions for Reconsideration."

Kindly stamp and return to this office the enclosed receipt copy of the filing designated for that purpose. You may direct any questions concerning this filing to the undersigned.

Respectfully submitted,



Eric T. Werner

Enclosures

cc: Patricia A. Mahoney, Esquire  
Audrey L. Allison, Esquire

No. of Copies rec'd 0+11  
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BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

RECEIVED

FEB 22 1999

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
)  
Amendment of Section 2.106 of the ) ET Docket No. 95-18  
Commission's Rules to Allocate ) RM-7927  
Spectrum at 2 GHz for Use ) PP-28  
by the Mobile-Satellite Service )  
  
To: The Commission

**CONSOLIDATED COMMENTS ON  
PETITIONS FOR RECONSIDERATION**

Iridium LLC ("Iridium"), by its attorneys, and pursuant to Section 1.429(f) of the Commission's rules, 47 C.F.R. § 1.429(f) (1997), and the Commission's Public Notice of January 29, 1999,<sup>1/</sup> hereby respectfully submits its consolidated comments regarding the petitions for reconsideration submitted by ICO Services Limited ("ICO") individually or in conjunction with certain of its investors that are constituent members of the ICO USA Service Group ("IUSG")<sup>2/</sup> in the above-captioned proceeding. These petitions (collectively, the "ICO Petitions") are discussed more fully below.

On November 25, 1998, the Commission released its *Memorandum Opinion and Order, Third Notice of Proposed Rule Making, and Order* ("November 25 Order") in the

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1/ The ICO Petitions appeared on Public Notice on January 29, 1999. See Public Notice, *Petitions for Reconsideration and Clarification of Action in Rulemaking Proceedings*, Report No. 2314, released January 29, 1999. This Public Notice appeared in the Federal Register on February 5, 1999. See 64 FED. REG. 5805 (February 5, 1999).

2/ These entities consist of: BT North America, Inc.; Hughes Space and Communication International; Telecomunicaciones de Mexico; and TRW, Inc.

above-captioned proceeding.<sup>3/</sup> On December 23, 1998, ("ICO") and the aforementioned members of IUSG (ICO and IUSG collectively herein, the "ICO Petitioners"), filed a Petition for Expedited Reconsideration ("Petition") asking the Commission to revisit the *Order* portion of the *November 25 Order*. On the same date, the ICO Petitioners also filed an Emergency Petition for Further Reconsideration ("Emergency Petition") seeking further review of the certain actions taken by the Commission in the *Memorandum Opinion and Order* portion of the *November 25 Order*. Finally, on January 19, 1999, ICO alone filed a Petition for Further Limited Reconsideration ("Further Petition") that identified additional issues in the *Memorandum Opinion and Order* section of the *November 25 Order* that ICO desired to have reexamined.<sup>4/</sup>

#### **I. EMERGENCY PETITION FOR FURTHER RECONSIDERATION**

In their Emergency Petition, the ICO Petitioners renew the request, raised in the comments of the MSS Coalition<sup>5/</sup> in response to the *First Report and Order and Further Notice of Proposed Rulemaking* ("*First R&O and FNPRM*") in this proceeding,<sup>6/</sup> that the

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3/ *Amendment of Section 2.106 of the Commission's Rules to Allocate Spectrum at 2 GHz for Use by the Mobile-Satellite Service*, FCC 98-309, released November 25, 1998 (*Memorandum Opinion and Order and Third Notice of Proposed Rule Making and Order* in ET Docket No. 95-18) ("*November 25 Order*").

4/ The Petition, the Emergency Petition, and the Further Petition will be referred to collectively herein as the "ICO Petitions."

5/ The MSS Coalition consists of Celsat America, Inc.; Comsat Corporation; Hughes Space and Communications International; ICO Global Communications; and Personal Communications Satellite Corporation.

6/ *Amendment of Section 2.106 of the Commission's Rules to Allocate Spectrum at 2 GHz for Use by the Mobile-Satellite Service*, 12 FCC Rcd 7388 (1997).

Commission conditionally approve new BAS licenses issued after the *First R&O and FNPRM* to require those incumbents to pay their own relocation expenses.

As it has in the past,<sup>7/</sup> Iridium supports conditioning new BAS licenses in the manner proposed and, accordingly, supports the ICO Petitioners' Emergency Petition. Iridium believes that such a condition just makes good sense and appropriately protects new MSS licensees from the unreasonable financial burden of relocating new BAS incumbents who entered the BAS band with full knowledge that they would be required to vacate to make way for MSS entry. Moreover, conditioning new BAS licenses in this fashion comports with past Commission policy and lends certainty and stability to the environment in which MSS operators must implement their services.

As its recent comments in response to the *Third Notice of Proposed Rulemaking* in this proceeding reflect, Iridium recognizes the legitimate expectations of 2 GHz incumbents to be reimbursed for their reasonable expenses to relocate to new spectrum.<sup>8/</sup> However, in this instance, Iridium agrees that to require MSS licensees to reimburse BAS licensees that enter the band knowing that they will have to move unfairly increases MSS licensees' transition burden. Accordingly, the ICO Petitioners' Emergency Petition should be granted.

## **II. PETITION FOR EXPEDITED RECONSIDERATION**

In their Petition, the ICO Petitioners ask the Commission to revisit and reverse its denial of their Request for Mandatory Submission of Information filed on July 30, 1998

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<sup>7/</sup> See, e.g., Reply Comments filed July 23, 1997, by Iridium LLC, in ET Docket No. 95-18, at 2.

<sup>8/</sup> See Comments of Iridium LLC, filed February 3, 1999, in ET Docket No. 95-18 ("Iridium Comments").

("Request").<sup>9/</sup> The Request sought to compel "all affected BAS and FS licensees, as well as frequency coordinators with knowledge of affected BAS operations" to supply an array of technical, financial, and market information related to their facilities and operations."<sup>10/</sup>

As noted above, Iridium generally supports the framework for 2 GHz incumbent relocation reaffirmed and further developed by the Commission in the *November 25 Order*. While Iridium recognizes that an effective and efficient relocation process will ultimately dictate that 2 GHz incumbents come forward with necessary information, Iridium nevertheless believes that the significant issues that remain to be resolved in connection with the Commission's proposed transition plan make the ICO Petitioners' *Request* premature at the present time.

In its recently filed Comments in this proceeding, Iridium proposed a program of inter-industry negotiations in which MSS licensees would bargain collectively with representatives of each of the relevant incumbent groups to resolve transition issues.<sup>11/</sup> Iridium believes such negotiations, conducted pursuant to the Commission's "good faith" bargaining requirements, will focus relocation issues and may narrow the scope of information that will be needed to effectuate the process. Accordingly, the negotiations provide the appropriate context for incumbents to furnish the necessary information, and Iridium fully expects that in due course they will do so.

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<sup>9/</sup> Request for Mandatory Submission of Information, filed July 30, 1998, by ICO Services Limited; TRW, Inc.; Comsat Corporation; C.S. Communications Co., Ltd.; BT North America Inc.; Hughes Telecommunications and Space Company; and Telecomunicaciones de Mexico ("*Request*").

<sup>10/</sup> See Request at ii, 8-10.

<sup>11/</sup> Iridium Comments at 7.

Finally, the ICO Petitioners purportedly seeks the requested information in order to determine the feasibility of sharing spectrum with the incumbents. To the extent that ICO Petitioners appear to suggest that grant of their Request will make it unnecessary for some incumbents to relocate, that suggestion ignores the fact that ICO is not the only MSS entity seeking to use spectrum in the 2 GHz band. There are a total of nine entities proposing such MSS operations in the band. Thus, as Iridium has noted in its Comments:

to provide MSS operators with the necessary certainty that the band will be clear to accommodate entry in time to meet operators' projected deployment deadlines, and to assure competitive neutrality among MSS operators, the Commission should establish a date certain for the departure of all incumbent licensees . . . .<sup>12/</sup>

### **III. PETITION FOR FURTHER LIMITED RECONSIDERATION**

Finally, in the Further Petition that it filed alone, ICO once again renews its persistent call for the Commission to relieve MSS licensees of the responsibility to reimburse 2 GHz incumbents for their relocation costs, this time advancing arguments not previously raised in this proceeding. As Iridium has acknowledged throughout this proceeding, the Commission's decision to require MSS licensees to reimburse 2 GHz incumbents for their expenses to relocate to comparable facilities is consistent with well-established precedent.

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<sup>12/</sup> *Id.* at 3-4.


#### **IV. CONCLUSION**

To date, the Commission has successfully managed to strike a fair balance between the legitimate interests of MSS licensees and those of 2 GHz incumbents in the development of its transition framework. Iridium urges the Commission to continue its efforts in this regard. Accordingly, for the foregoing reasons, the Commission should grant the ICO Petitioners' Emergency Petition for Further Reconsideration and dispose of the other petitions consistent with the comments expressed herein.

Respectfully submitted,

**IRIDIUM LLC**

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February 22, 1999

## **CERTIFICATE OF SERVICE**

I, Bridget Y. Monroe, a secretary for the law firm of Verner, Liipfert, Bernhard, McPherson and Hand, Chartered, hereby certify that I have, this twenty-second (22nd) day of February, 1999, caused a copy of the foregoing Consolidated Comments on Petition for Reconsideration to be served via first-class United States mail, postage-prepaid ( \* or by hand delivery), on each of the following:

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